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7 ANIMAL BEHAVIOR COLLEGE, INC.

8
9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
11

12 ANIMAL BEHAVIOR COLLEGE,
13 INC.

14 Plaintiff,

15 v.

16 U.S. DEPARTMENT OF DEFENSE;
LLOYD J. AUSTIN III, in his official
capacity as Secretary of the U.S.
17 Department of Defense; PATRICIA
MONTES BARRON, in her official
18 capacity as Deputy Assistant Secretary
of Defense for Military Community and
19 Family Policy for the U.S. Department
of Defense; and ERIKA R. SLATON,
20 in her official capacity as Director of
Military Community Support Programs
21 for the U.S. Department of Defense,

22 Defendants.
23

Case No. 2:24-cv-01962

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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1 Plaintiff ANIMAL BEHAVIOR COLLEGE, INC. (“Plaintiff,” “ABC,” or the
2 “College”), by and through its attorneys, alleges as follows:

3 I. INTRODUCTION

4 1. The College is a private vocational school that offers career training in
5 professions related to animal care and animal services. One of the largest such
6 vocational schools in the United States, the College has successfully trained over
7 35,000 graduates, many of whom are approved or certified such as by the
8 Certification Council for Professional Dog Trainers, the International Association of
9 Animal Behavior Consultants, the International Association of Canine Professionals,
10 the National Association of Dog Obedience Instructors, the National Association of
11 Veterinary Technicians in America, and the National Dog Groomers Association of
12 America, as well as by the College itself.

13 2. For many of the almost one million spouses of active duty service
14 members, the special conditions of military life make it difficult for them to start or
15 maintain a career. Indeed, military spouses often move frequently to keep families
16 together, or bear a larger share of family responsibilities, leaving little time for
17 education or job training.¹ A 2021 survey conducted by Defendant U.S.
18 DEPARTMENT OF DEFENSE (“DoD”) confirmed this reality. The DoD found
19 that military spouse unemployment was 21 percent in 2021 – more than five times
20 the national rate.² Spouses who were unemployed experienced a higher percentage
21 of food insecurity.³ Less than half of active duty spouses are satisfied with the
22 military way of life.⁴

23 _____
24 ¹ See <https://www.gao.gov/assets/gao-19-320r.pdf>.

25 ² See <https://www.defense.gov/News/Releases/Release/Article/3295629/dod-survey-delivers-data-on-well-being-of-military-spouses/>.

26 ³ *Id.*

27 ⁴ *Id.*
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1 3. In response to the survey, Defendant PATRICIA MONTES BARRON,
2 the DoD’s Deputy Assistant Secretary of Defense for Military Community and
3 Family Policy, pledged a renewed commitment to finding ways for military spouses
4 to thrive:

5 “We are committed to taking care of our military families. The results
6 of the latest survey allow us to prioritize solutions that meet their most
7 pressing needs. I am truly grateful to the spouses who share their
8 experiences and opinions through our surveys. Their voices serve as a
9 guide as we continue the progress we have made on delivering on the
10 DoD’s priority to help military families thrive.”⁵

11 4. Unfortunately, her words have gone largely unheeded within the DoD.
12 One of the programs designed to improve employment opportunities for military
13 spouses is the My Career Advancement Account program (“MyCAA”). MyCAA
14 provides up to \$4,000 in tuition assistance “to an eligible spouse who is pursuing
15 education, training, or a license or credential to expand the spouse’s employment
16 and portable career opportunities.” 10 U.S.C. § 1784a(a)(2). A “portable” career
17 field is defined by the DoD and the Department of Labor (“DOL”) as one that is
18 high-growth and in high-demand.⁶ For many years, the College has provided
19 training to military spouses, and to other students, who are pursuing training to
20 expand their employment and portable career opportunities.

21 5. MyCAA, however, has been historically under-utilized. A 2019 audit
22 performed by U.S. Government Accountability Office showed that the number of
23 military spouses receiving tuition assistance through MyCAA declined more than 40
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25

26 ⁵ See [https://www.defense.gov/News/Releases/Release/Article/3295629/dod-survey-](https://www.defense.gov/News/Releases/Release/Article/3295629/dod-survey-delivers-data-on-well-being-of-military-spouses)
27 [delivers-data-on-well-being-of-military-spouses](https://www.defense.gov/News/Releases/Release/Article/3295629/dod-survey-delivers-data-on-well-being-of-military-spouses).

28 ⁶ See <https://www.gao.gov/assets/gao-19-320r.pdf>.

1 percent, from about 38,000 spouses in 2011 to about 21,000 in 2017.⁷ Only seven
 2 percent of eligible spouses participated in the program in 2017.⁸

3 6. Part of the under-utilization of MyCAA is due to the DoD's refusal or
 4 failure to fund eligible programs. Even though Congress never authorized the DoD
 5 to deny funding for career training programs that satisfy its statutory criteria under
 6 10 U.S.C. § 1784a (e.g., training in a portable career field), or to adopt non-statutory
 7 criteria to determine funding eligibility, MyCAA has recently begun to deny funding
 8 for eligible military spouses based on unknown and undisclosed criteria. And even
 9 assuming that it were authorized to adopt non-statutory criteria for approval of
 10 educational programs -- and it is not -- the DoD has never engaged in proper
 11 rulemaking, or published any regulations, to create and promulgate criteria to
 12 determine eligibility for MyCAA funding. Moreover, the DoD's responses to the
 13 College's requests pursuant to the Freedom of Information Act, 5 U.S.C. § 552,
 14 confirmed that there are no such published regulations or policies.

15 7. The DoD's unlawful and arbitrary actions have harmed many military
 16 spouses who have tried, unsuccessfully, to be funded by MyCAA through their
 17 enrollment in the College's programs. The DoD has refused, and continues to
 18 refuse, to provide tuition assistance to eligible military spouses who have applied to
 19 the College, or even to clearly explain the reasons for its denial.

20 **II. JURISDICTION AND VENUE**

21 8. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and § 1361.

22 9. This Court has the authority to grant declaratory, injunctive, and
 23 mandamus relief, and to compel the DoD to take ministerial and non-discretionary
 24 steps unlawfully withheld or unreasonably delayed under the Declaratory Judgment
 25 Act (28 U.S.C. §§ 2201-2202), the Mandamus Act (28 U.S.C. § 1361), the

26 ⁷ *Id.*

27 ⁸ *Id.*

1 Administrative Procedure Act (“APA”) (5 U.S.C. §§ 500, *et seq.*), and this Court’s
2 inherent equitable powers (see 5 U.S.C. §§ 702-706).

3 10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e)(1)(B-C)
4 and 5 U.S.C. § 703.

5 **III. PARTIES**

6 11. Plaintiff ANIMAL BEHAVIOR COLLEGE, INC. is a vocational
7 school located and doing business at 27509 Avenue Hopkins in Valencia,
8 California. The College and its educational programs are approved by the Bureau
9 for Private Postsecondary Education within the California Department of Consumer
10 Affairs.

11 12. Defendant U.S. DEPARTMENT OF DEFENSE is a federal agency
12 headquartered in Washington, D.C., and operates MyCAA.

13 13. Defendant LLOYD J. AUSTIN III is the Secretary of the DoD. In this
14 capacity, he oversees each of the component offices within the DoD, including the
15 Office of the Under Secretary of Defense for Personnel & Readiness, and has
16 ultimate authority over all DoD policies, procedures, and practices, including
17 MyCAA.

18 14. Defendant PATRICIA MONTES BROWN is the DoD’s Deputy
19 Assistant Secretary of Defense for Military Community and Family Policy. The
20 Military Community and Family Policy office within the DoD is responsible for
21 operating MyCAA. In this capacity, she is directly responsible for all of the DoD’s
22 programs and policies that establish and support community quality of life programs
23 for service members and their families, including MyCAA.

24 15. Defendant ERICA R. SLATON is the DoD’s Director of Military
25 Community Support Programs which includes MyCAA.

26 **IV. FACTUAL ALLEGATIONS**

27 16. In 2007, the DoD created MyCAA to improve employment
28 opportunities for military spouses. Military spouses who are married to active duty

1 service members in pay grades E-1 to E-6, W-1 to W-2, and O-1 to O-3, and who
2 have successfully completed high school, are eligible for MyCAA funding. 10
3 U.S.C. § 1784a(b)(1). MyCAA provides up to \$4,000 in “tuition assistance to an
4 eligible spouse who is pursuing education, training, or a license or credential to
5 expand the spouse’s employment and portable career opportunities.” 10 U.S.C. §
6 1784a(a)(2).

7 17. The College offers career training in professions related to animal care
8 and animal service, including its Dog Trainer, Veterinary Assistant, and Pet
9 Groomer Programs (collectively, the “ABC Programs”). According to the DOL’s
10 Occupational Outlook Handbook, the job outlook for animal care and service
11 workers “is projected to grow 16 percent from 2022 to 2032, much faster than the
12 average for all occupations” and “[a]bout 79,900 openings for animal care and
13 service workers are projected each year, on average, over the decade.”⁹ This strong
14 outlook means the skills and training provided by the Programs are “portable” under
15 10 U.S.C. § 1784a(a)(2).

16 18. Indeed, the ABC Programs have, until recently, received MyCAA
17 funding. Since 2009, over 7,000 military spouses have funded their enrollment in
18 the ABC Programs using MyCAA, and have obtained training towards their portable
19 career opportunities in animal care and service. Many of the College’s graduates are
20 now enjoying successful careers and helping to support their military families.

21 19. However, in 2023, the DoD, without clear explanation, and without any
22 statutory or regulatory support, suddenly and erroneously has apparently categorized
23 the ABC Programs as “continuing education,” and has abruptly denied MyCAA
24 tuition assistance to eligible military spouses to enroll in the ABC Programs. And
25 many spouses have since tried, unsuccessfully, to be funded by MyCAA for their
26

27 ⁹ See [https://www.bls.gov/ooh/personal-care-and-service/animal-care-and-service-](https://www.bls.gov/ooh/personal-care-and-service/animal-care-and-service-workers.htm#tab-6)
28 [workers.htm#tab-6](https://www.bls.gov/ooh/personal-care-and-service/animal-care-and-service-workers.htm#tab-6).

1 enrollment in the ABC Programs. The DoD’s denials have adversely affected many
 2 military spouses. With each passing week, an increasing number of spouses and
 3 their families are harmed by their inability to enroll in the ABC Programs through
 4 MyCAA.

5 **V. CLAIMS FOR RELIEF**

6 **Count I - Violation of Administrative Procedure Act (“APA”)**

7 **Agency Action Contrary to Law**

8 20. Plaintiff realleges and incorporates by reference each and every
 9 allegation contained in the preceding paragraphs as if set forth fully herein.

10 21. A court must “hold unlawful and set aside agency action ... found to be
 11 ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
 12 law.” 5 U.S.C. § 706(2)(A).

13 22. Defendants’ denial of MyCAA tuition reimbursement to eligible
 14 military spouses for enrollment in the ABC Programs is contrary to law.

15 23. This Court should issue an order compelling the DoD to comply with
 16 the APA and 10 U.S.C. § 1784a by providing MyCAA tuition assistance to eligible
 17 military spouses who enroll in the ABC Programs.

18 **Count II - Violation of Administrative Procedure Act**

19 **Agency Action Unlawfully Withheld or Unreasonably Delayed**

20 24. Plaintiff realleges and incorporates by reference each and every
 21 allegation contained in the preceding paragraphs as if set forth fully herein.

22 25. A court “shall ... compel agency action unlawfully withheld or
 23 unreasonably delayed.” 5 U.S.C. § 706(2)(A).

24 26. Defendants have “unlawfully withheld or unreasonably delayed”
 25 MyCAA tuition reimbursement to eligible military spouses who enroll in the ABC
 26 Programs.

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28 ///

1 27. This Court should issue an order compelling the DoD to comply with
2 the APA and 10 U.S.C. § 1784a by providing MyCAA tuition assistance to eligible
3 military spouses who enroll in the ABC Programs.

4 **Count III - Mandamus**

5 **Defendants Are Subject to Mandamus**

6 28. Plaintiff realleges and incorporates by reference each and every
7 allegation contained in the preceding paragraphs as if set forth fully herein.

8 29. The Court has authority over “any action in the nature of mandamus to
9 compel an officer or employee of the United States or any agency thereof to perform
10 a duty owed to the plaintiff.” 28 U.S.C. § 1361.

11 30. Defendants are clearly obligated to comply with federal law, including
12 the APA and 10 U.S.C. § 1784a. As set forth above, Defendants are clearly not in
13 compliance with the law because they have refused to provide MyCAA tuition
14 assistance to eligible military spouses who enroll in the ABC Programs.

15 31. Mandamus is appropriate to the extent that Plaintiff has no adequate
16 alternative remedy against Defendants.

17 **Count IV - Declaratory Relief**

18 32. Plaintiff realleges and incorporates by reference each and every
19 allegation contained in the preceding paragraphs as if set forth fully herein.

20 33. An actual controversy has arisen and now exists between Plaintiff, on
21 the one hand, and Defendants, on the other. Plaintiff contends that the DoD is
22 required to provide MyCAA tuition reimbursement to eligible military spouses who
23 enroll in the ABC Programs. On information and belief, Defendants contend that
24 the DoD’s refusal to provide MyCAA tuition assistance is lawful.

25 34. Plaintiff therefore requests and is entitled to a judicial determination as
26 to the rights and obligations of the parties with respect to this controversy, and such
27 a judicial determination of these rights and obligations is necessary and appropriate
28 at this time.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a. A declaration, order, and judgment holding that Defendants violated the APA and 10 U.S.C. § 1784a by refusing to provide MyCAA tuition reimbursement to eligible military spouses who enroll in the ABC Programs;
- b. An injunction requiring Defendants to provide MyCAA tuition assistance to military spouses who enroll in the ABC Programs;
- c. An award of reasonable attorneys' fees, costs, and other expenses pursuant to any applicable statute or authority; and
- d. Any and all such other relief as the Court deems just and equitable.

Dated: March 12, 2024

BURKE, WILLIAMS & SORESENSEN, LLP

By: 

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Albert Tong, Esq.

Kate Im, Esq.

Attorneys for Plaintiff

ANIMAL BEHAVIOR COLLEGE, INC.